

# **EXHIBIT 11**

November 30, 2022

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

*In Re* FLINT WATER CASES Case No. 16-10444

STATUS CONFERENCE

BEFORE THE HONORABLE JUDITH E. LEVY  
UNITED STATES DISTRICT JUDGE

NOVEMBER 30, 2022

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(Appearances continued on next page)

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P R O C E E D I N G S

THE CLERK: Calling the Flint Water Cases.

THE COURT: Okay. Thank you.

And we already have appearances taken down. So we can get right to our work together. And we issued an agenda for this status conference. And as agendas go, it's relatively short. So hopefully we can work our way through this material.

The first topic was one submitted by, I think, Mr. Stern and his firm. And it relates to VNA's opposition to co-liaison counsel's notice of the deposition of Pierre Farcot, who is a communications director and special advisor to the chairman at Veolia. And apparently he is responsible for crisis communication.

And that deposition, I think, was scheduled for today.

So let's see, Mr. Stern, did the deposition -- I assume it didn't take place then?

MR. STERN: No, Your Honor.

THE COURT: Okay. And is there anything more you want to say? I see that you're trying to take this individual's deposition. And it relates to our case.

MR. STERN: So Mr. Farcot during the trial and prior to the trial was employed by Veolia Environment SE. That's based on our research and investigation. That's the French

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1 entity for Veolia.

2 He attended the trial almost every week. Sat in the  
3 back of the courtroom. I believe he was there the day Your  
4 Honor asked about the Twitter account. And it turns out that  
5 Mr. Farcot was the individual who was not only responsible  
6 according to testimony from other VNA witnesses for the Veolia  
7 Flint Facts website, the content on the website, the updates  
8 to the content on the website, but also the Twitter account.

9 During the course of the deposition of Carrie  
10 Griffiths, who is presently the communications director for  
11 VNA, she described that prior to trial, there were two, in her  
12 words, monumental events taking place at the same time.

13 One was the merger between Suez and Veolia, which the  
14 Court is aware of based on the Richard Humann issues that  
15 evolved throughout trial. And the other monumental event was  
16 the trial.

17 And according to the current communications director  
18 for VNA, Veolia determined that the American company, VNA,  
19 would handle all communications related to the merger, and  
20 French -- the French company would handle everything related  
21 to the trial.

22 So Mr. Farcot, based on my own attendance and  
23 participation in the trial, was there. It appears he was  
24 Tweeting from the courtroom or outside the courtroom. I  
25 watched him interact repeatedly with not only attorneys for

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1 Veolia but other individuals who were there for Veolia.

2 And when I noticed the deposition, I was told two  
3 things by Mr. Kramer. One is that he's no longer employed by  
4 Veolia and that was like as of the date of the deposition. He  
5 just suddenly didn't work there anymore despite his LinkedIn  
6 profile which he's active on. I'm still showing he does as of  
7 I think this morning or yesterday.

8 And two, even if he did, VNA and Veolia are not the  
9 same thing and they have no control over him. And so they've  
10 pushed me to The Hague Convention.

11 The same is true as to item number 2 on Your Honor's  
12 agenda, which is an individual by the name of Laurent Obadia.  
13 He had previously been deposed. This is the person who still  
14 works for Veolia who Mr. Farcot actually worked under who was  
15 in charge of Mr. Farcot's activities.

16 And even though he does work for Veolia, I have been  
17 advised by counsel for VNA that they have no control over  
18 Mr. Obadia and Mr. Obadia is not part of any entity that's a  
19 part of this litigation. And that again, I must go through  
20 The Hague Convention in order to get both of these  
21 individual's testimony.

22 So I'm not sure exactly what Your Honor can do, but  
23 there's a dispute about the scope of what Your Honor has  
24 permitted in terms of discovery and the import of the  
25 information campaign that Veolia had undertaken prior to and

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1 during the trial.

2 My impression is that Veolia believes that that's  
3 only related to geotargeting. And if there's no documents  
4 that show geotargeting, the inquiry should end there. And  
5 that not only do these two individuals not work for VNA, one  
6 of whom doesn't work for any Veolia entities, not only are  
7 they in France, but I need to stop this process of doing  
8 discovery because I have, according to them, what I need.

9 So that's the dispute.

10 THE COURT: Okay. And who is going to respond.  
11 Would that be you, Mr. Kramer?

12 MR. OLSEN: I'll respond, Your Honor. Mike Olsen.  
13 And there are a few problems with these two depositions. And  
14 let me start where Mr. Stern finished with respect to the  
15 scope of discovery.

16 He's noticed and taken many depositions and gotten  
17 many documents with respect to PR discovery. During the  
18 October status conference, Your Honor noted that this  
19 discovery does not go to any claims or defenses in this case.

20 But rather you noted the Detroit News article that  
21 had alleged that VNA may have geotargeted ads to potential  
22 jurors or actual jurors. And that that was a topic of  
23 significant interest. And you asked me to reconsider our  
24 discovery position to enable Mr. Stern to address this  
25 allegation that there was geotargeting with respect to the

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1 jurors.

2 We took your admonition to heart and that's exactly  
3 what we did. We revised our request to admit responses. We  
4 revised our document responses to produce all of the Google  
5 ads that were related to the advertisements that went out.  
6 Google sponsored search does offer the ability to target  
7 specific regions, states, zip codes.

8 The documents and the deposition testimony make clear  
9 that VNA never utilized these geotargeting or geofencing  
10 features. We produced all of the ads to Mr. Stern and the  
11 data that confirms that VNA never geotargeted or geofenced  
12 these advertisements.

13 We've made people available for depositions. In  
14 Ms. Griffiths deposition, who you ordered us to produce, she  
15 identified one additional person, Jace Connor, the Director of  
16 Digital Communications, who we have agreed to make Mr. Connor  
17 available for deposition to fully address this potential  
18 geotargeting question.

19 But where we sit today is that not only does VNA  
20 expressly deny ever geotargeting any ads in response to  
21 anything, but we've produced all of that data. We've produced  
22 those documents. And we produced witnesses and will produce  
23 Mr. Connor who all are going to say and have said that there  
24 was no geotargeting with respect to anything in any effort to  
25 influence any potential jurors.

1           Now Mr. Stern has modified what he's claiming is the  
2     need for this to I think what he's been calling a  
3     misinformation campaign. And he's talking about Tweets and  
4     the Flint Facts website, both which happened after the jury  
5     was impaneled and the jury was instructed and ordered not to  
6     follow media. But all of those Tweets and that website are  
7     public.

8           If there's some particular Tweet or addition to the  
9     website that Mr. Stern thinks needs the Court's attention,  
10    even though it has nothing to do with the claims or defenses  
11    in this lawsuit, obviously feel free to bring it to the  
12    Court's attention.

13          But we're now demanding additional witnesses that go  
14    to this, quote, misinformation campaign close quote that has  
15    nothing to do with the geotargeting issue. In fact, Your  
16    Honor already struck a third party subpoena related to this  
17    very issue because you concluded that it went too far afield  
18    and wasn't targeted to this geotargeting question.

19          Now with respect to these two particular witnesses  
20    that we're talking about, Mr. Farcot has never worked for VNA.  
21    He worked for VE, who's not a party to this lawsuit. He left  
22    as of September 30, 2022. VNA has never had any control over  
23    him. They certainly do not have any control over him now.  
24    Mr. Farcot resides in France. He is not someone we can simply  
25    produce for deposition.



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1           Now plaintiffs obviously can attempt to secure his  
2 deposition through The Hague Convention, but that's an issue  
3 for another day. So at least with respect to Mr. Farcot --  
4 and I'll address Mr. Obadia in one second -- the substance of  
5 this has gone way far afield of the geotargeting issue.

6           It's now general discovery related to a  
7 disinformation campaign that is -- that are related to Tweets  
8 and a website that is public. And if Mr. Stern has issues  
9 with any of those Tweets, he can bring them to the Court's  
10 attention.

11           THE COURT: Well, Mr. Olsen, let's stop for just a  
12 minute on Mr. Farcot. Now that I know he's the individual who  
13 was sitting just a little to the right of my line of sight for  
14 a great many days of our six months in trial, is he in the  
15 United States now?

16           MR. OLSEN: He resides in France.

17           THE COURT: I know. But he resided in Ann Arbor for  
18 a good number of weeks if not months during the trial. And so  
19 I'm just interested in do you know if he's in the United  
20 States now? Because he could be served while he's here.

21           MR. OLSEN: As of the moment, I have no idea where  
22 Mr. Farcot is at this moment. My belief is he's probably in  
23 France because that's where he lives, but I don't have any  
24 idea where Mr. Farcot is at this moment. We certainly don't  
25 control him.

1           Now obviously, again, this has nothing to do with the  
2     geotargeting.

3           THE COURT: Well, let me say something about that.  
4     Because I hear your argument that the discovery that I advised  
5     you that I thought would be important to take in this case, I  
6     focused on the digital media campaign that was identified in  
7     the Detroit News article that I was interested in I think is  
8     important to ensuring a fair trial.

9           And so my focus was certainly on whether individual  
10    jurors who had been impaneled or jurors -- the zip codes for  
11    jurors in the venire had been involved in some way in conduct  
12    of that nature. Or whether it's ongoing. And we have three  
13    or more trials scheduled still. Well, I guess three. That  
14    are in line to be tried in this case. So it matters what's  
15    going on in an ongoing basis.

16          The Supreme Court case, *Gentile v State Bar of*  
17    *Florida*, the 1991 case, has a quote that I think is worth  
18    focusing on. And it says few, if any, interest under the  
19    constitution are more fundamental than the right to a fair  
20    trial by impartial jurors and an outcome affected by  
21    extrajudicial statements.

22          So in 1991, they weren't thinking of geotargeting,  
23    but they talked about extrajudicial statements would violate  
24    that fundamental right to a fair trial. And so and that case  
25    talked about First Amendment balances in limiting

1 extrajudicial statements.

2 And so I take to heart the Supreme Court's words  
3 there that it's not just a targeted campaign of some sort.  
4 But digital media can influence jurors. And relevant to our  
5 work, we have a jury trial coming up now in October of 2023.  
6 And it matters to me that this be a fair impartial jury. It  
7 matters to you. It matters to everybody here.

8 And so I think that the decision I made with respect  
9 to the subpoena of the Detroit News related to the Tiger Joyce  
10 Op-Ed that was dramatically factually inaccurate on some  
11 fundamental issues that I think could be very misleading for  
12 potential registrants and claimants under the settlement.

13 I was deeply worried about that article going out and  
14 causing confusion, hysteria, chaos in the settlement process.  
15 That was something I was very worried about.

16 But that individual article coming from a media  
17 outlet has a -- there's a different balance there than a  
18 deposition of somebody who works for the -- is it for the  
19 parent company of the VNA defendants in this case?

20 MR. OLSEN: Well, he no longer works for that  
21 company.

22 THE COURT: Well, worked. Past tense. Thank you.

23 MR. OLSEN: Worked.

24 And I would say two things in response, Your Honor.  
25 The first substantively with respect to the scope of

1 discovery. Now that we're past the geotargeting issue,  
2 there's nothing secret about what VNA said during the trial or  
3 since. Plaintiffs have access to that website. They have  
4 access to all of the Tweets just like any member of the  
5 public.

6 If there are any Tweets or postings that plaintiffs  
7 think are improper, they should raise them with the Court.  
8 But they haven't done that.

9 There's no evidence of any improper effort to  
10 influence any jurors or potential jurors. They simply claim  
11 the right to broad discovery by using the words  
12 "disinformation campaign" without identifying a single piece  
13 of disinformation. And are -- and I just don't think that's  
14 proper.

15 There's been no showing that this discovery that  
16 admittedly doesn't go to any claims or defenses in this case  
17 should be ongoing for -- I agree with respect to the integrity  
18 of the judicial process is important. But there's no evidence  
19 that that is even in question.

20 Now with respect to the two witnesses in particular,  
21 VNA does not control these two witnesses. Mr. Farcot doesn't  
22 work for even the parent anymore.

23 THE COURT: Okay.

24 MR. OLSEN: And with respect to Mr. Obadia, I think  
25 it's important to note he, again, does not work for VNA. He

1 is currently employed with VE. But VNA cannot force him to  
2 appear in any event.

3 It's important to note that Mr. Obadia was already  
4 deposed in this case. Plaintiffs' counsel went through The  
5 Hague Convention to secure that deposition.

6 THE COURT: That wasn't Mr. Stern and it wasn't  
7 related to this issue. If I recall, it was Mr. Leopold who  
8 brought it to the Court's attention on behalf of the class  
9 case.

10 MR. OLSEN: Your Honor, when you say it wasn't  
11 related to this issue, it was class plaintiffs. And class  
12 plaintiffs' justification for that deposition and I quote was,  
13 "Mr. Obadia was a key witness because he played a central role  
14 from Paris in coordinating Veolia's media campaign to spread  
15 misinformation in order to shift blame publicly for its role  
16 in causing the Flint Water Crisis." Precisely --

17 THE COURT: And when was that? When did it take  
18 place?

19 MR. OLSEN: I don't remember the date of when it --

20 MR. STERN: 2018.

21 MR. OLSEN: 2018. And so this is squarely the topic  
22 that was part of his first --

23 THE COURT: No, it's not. 2018, the trial hadn't  
24 begun.

25 MR. OLSEN: All right. So again, substantively, no

1 one is pointing to a single Tweet or a single thing on the  
2 website that's part of some disinformation campaign.

3 THE COURT: Well --

4 MR. STERN: Judge, may I clarify something?

5 MR. OLSEN: And just one more point.

6 THE COURT: Well, let me let Mr. Olsen finish.

7 MR. OLSEN: With respect to Mr. Obadia, again, we  
8 cannot force him. He does not work at a party in this case.  
9 Just like Mr. Leopold did, if the Court decides at deposition  
10 -- a second deposition of Mr. Obadia is appropriate,  
11 plaintiffs would have to go through the same process that  
12 class plaintiffs went through to conduct it through the  
13 procedure set out in The Hague Convention.

14 THE COURT: Okay. Mr. Stern.

15 MR. STERN: Just as an initial matter, we do not  
16 agree or concede that there's no evidence of a geotargeted  
17 campaign.

18 There's not a single person that we have deposed so  
19 far who had anything to do on a day-to-day basis with  
20 utilizing a Google advertisement campaign and how the  
21 interaction between social media and driving people to a  
22 website actually worked and who the people were that were  
23 actually driven to that website.

24 Yes, Veolia produced a hundred documents, half of  
25 which are unreadable. We can't even see what they say. But

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1 we do not concede that there was not a geotargeted campaign.

2 Number two, Mr. Obadia is in constant contact with  
3 VNA. The witnesses have testified that on a monthly basis or  
4 a semi-monthly basis, they meet with him and other members of  
5 Veolia about the litigation, about the communications.

6 They were put in charge in France of all  
7 communications during the trial. And now it's very convenient  
8 to say, well, we have nothing to do with them. I mean,  
9 they're their own entity.

10 So they were in trial every day with his red socks  
11 sitting in the back while Your Honor asked about the Tweets  
12 sending out Tweets. It's not the Tweets themselves that are  
13 the issue.

14 The issue is the utilization of social media to drive  
15 potential jurors to a website that was being continuously  
16 updated during the trial about facts during the trial that  
17 were factually inaccurate. We haven't even scratched the  
18 surface of that.

19 And so it's a convenient thing for Mr. Olsen to say  
20 we produced documents. There's no geotargeting. Your Honor  
21 said back last month that the only interest she has in this is  
22 whether certain zip codes were chosen. And we've shown you  
23 through documents that no zip codes were chosen. So this is  
24 done. This is over.

25 It's not over.

1           About Mr. Obadia. I understand that they're saying  
2           Mr. Farcot no longer works for the company. I don't believe  
3           that. But I understand that's what they're saying and I  
4           understand that presently that is his status according to VNA.

5           There is no dispute that Mr. Obadia still works for,  
6           in a very high role, Veolia. There is no dispute that he  
7           communicates regularly with VNA about this litigation and  
8           about the trials.

9           Yes, under the law, we need to go through The Hague  
10          Convention. But these folks are in touch with this man. They  
11          speak to him on a monthly basis. You talk about gamesmanship,  
12          about putting someone through the ringer. I mean, just call  
13          the guy --

14          THE COURT: Let me ask Mr. Olsen. Is somebody who  
15          was in the position of Mr. Farcot or Farcot -- whatever it  
16          is -- going to be at the next trial sitting in the back?

17          MR. OLSEN: I don't have any idea, Your Honor.

18          THE COURT: Okay. Well, and will you sign a  
19          certification that will be filed on the docket that Mr. Farcot  
20          no longer has any affiliation with any VNA entities?

21          MR. OLSEN: I don't know what affiliation. I'll have  
22          to talk to the company. I know he no longer works for VE.  
23          That's what I've been told. I'm happy to -- I don't know if  
24          he has some kind of consulting. I don't know what his  
25          arrangement is --